

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JAMES W. CARROLL and
DOROTHY M. CARROLL,

Plaintiffs,

vs.

SILAC INSURANCE COMPANY
formerly d/b/a Equitable Life &
Casualty Insurance Company, and
JOHN DOES 1-20.

Defendants.

CV 20–155–M–DLC

ORDER

Before the Court is Plaintiffs’ Motion for Substitution of Parties and Request for Waiver of Hearing. (Doc. 20.) Based on incapacity and pursuant to Federal Rule of Civil Procedure 25, Plaintiffs move to substitute David and Della Clark, in their capacities as Plaintiffs’ co-guardians and co-conservators, for named parties in place of James W. Carroll and Dorothy M. Carroll. (*Id.* at 1–2.) Plaintiffs indicate that they have not yet heard from Defendant SILAC Insurance Company (“SILAC”) as to whether it objects to the motion. (*Id.* at 5.)

Notwithstanding SILAC’s silence on the issue thus far, the Court’s initial review of the motion and its attachments leads it to believe that the relief Plaintiffs seek pursuant to Rule 25 is probably appropriate. However, and perhaps out of an over-abundance of caution, the Court will deny the motion, subject to renewal.

Specifically, the Court is concerned that the motion fails to indicate whether David and Della Clark—currently nonparties to this case—have been served as provided in Rule 25(a)(3). Further, the Court is generally hesitant to rule on a motion without knowing whether the nonmovant opposes it.

Accordingly, IT IS ORDERED that the motion (Doc. 20) is DENIED, subject to renewal if:

- (1) Plaintiffs indicate in their renewed motion that nonparties have been served pursuant to Rule 25(a)(3); and
 - (2) Plaintiffs indicate in their renewed motion whether SILAC opposes it.
- See* D. Mont. L.R. 7.1(c)(1).

DATED this 27th day of May, 2021.



Dana L. Christensen, District Judge
United States District Court